



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 10443-02  
18 December 2002

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: LTC [REDACTED] USMCP [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 21 Sep 02  
(2) Subject's e-mail dtd 17 Dec 02  
(3) HQMC MMER/PERB memo dtd 4 Dec 02  
(4) HQMC CMT memo dtd 12 Nov 02  
(5) HQMC CMT e-mail dtd 18 Dec 02  
(6) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the entire fitness report for 1 August 1998 to 26 March 1999, a copy of which is at Tab A to enclosure (1). Enclosure (2) reflects she amended her application to request modification of the report by removing only section K (reviewing officer (RO) marks and comments). As indicated in enclosure (3), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed this modification. Petitioner further requested removal of her failures of selection before the Fiscal Year 2002 and 2003 Reserve Colonel Selection Boards, so as to be considered by the selection board that next convenes to consider officers of her category for promotion to the grade of colonel as an officer who has not failed of selection to that grade.

2. The Board, consisting of Messrs. Exnicios, Goldsmith, and Zsalman, reviewed Petitioner's allegations of error and injustice on 18 December 2002, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (4), the HQMC Career Management Team (CMT), the office having cognizance over the subject matter of Petitioner's request to strike her failures of selection for promotion, has commented to the effect that this request would warrant approval if the entire fitness report in question were to be removed.

c. In enclosure (5), the HQMC CMT stated that their recommendation, at enclosure (4), to remove Petitioner's failures of selection for promotion "...was based primarily on the derogatory portion of the report entered by the RO." They added that "If only the RO's comments are removed, we feel that would still be sufficient to warrant removal of the failures of selection."

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (5), the Board finds the existence of an injustice warranting the following corrective action.

#### RECOMMENDATION:

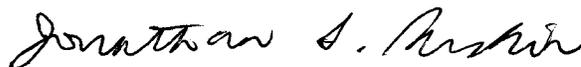
a. That Petitioner's record be corrected so that she will be considered by the earliest possible selection board convened to consider officers of her category for promotion to colonel as an officer who has not failed of selection for promotion to that grade.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

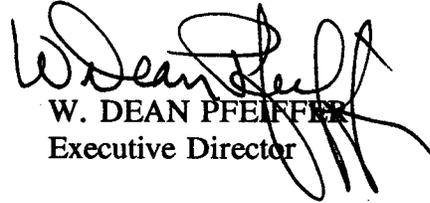
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
JONATHAN S. RUSKIN  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER  
Executive Director



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:  
1610  
MMER/PERB  
DEC 04 2002

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
LIEUTENANT COLONEL [REDACTED] USMCR

Ref: (a) LtCol [REDACTED] DD Form 149 of 21 Sep 02  
(b) MCO P1610.7E

Encl: (1) CMC Advisory Opinion 1600 CMT of 12 Nov 02

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 4 December 2002 to consider Lieutenant Colonel [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 980801 to 990326 (CS) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report is adverse, yet she was not afforded an opportunity to either sign or respond.

3. In its proceedings, the PERB concluded that:

a. None of the marks in Sections D, E, F, G, or H of the report are adverse. Consequently, the petitioner was correctly not required to sign Item J2, nor was she allowed to submit a statement of rebuttal.

b. Given the petitioner's grade and billet assignment, the implications by the Reviewing Officer clearly convey negativity. As such, the petitioner should have been given an opportunity to acknowledge the adversity of the Reviewing Officer's comments by signing Item K6 and being afforded the right to attach a rebuttal. The Board does not, however, find that removal of the complete report is warranted. Instead, they have directed elimination of Section K in its entirety and the corresponding corrections to the petitioner's Master Brief Sheet.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the modified version of the contested fitness report should remain a part of Lieutenant Colonel [REDACTED]

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
LIEUTENANT COLONEL [REDACTED] ICR

official military record. The limited corrective action identified in subparagraph 3b is considered sufficient.

5. The enclosure is furnished to assist in resolving Lieutenant Colonel [REDACTED] request to remove her failure of selection to the grade of Colonel.

6. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance  
Evaluation Review Board  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

104413-02

IN REPLY REFER TO:

1600  
CMT  
12 Nov 02

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: RESERVE AFFAIRS ADVISORY OPINION ON BCNR APPLICATION;  
CASE OF LIEUTENANT COLONEL [REDACTED]  
[REDACTED] MCR

1. Reserve Affairs Division (CMT) was requested to comment on the removal of Lieutenant Colonel [REDACTED]'s failures of selection if the Performance Evaluation Review Board (PERB) approves the removal of the following fitness report from her record:

CS 980801-990326

2. The Reporting Senior and Reviewing Officer marks on the fitness report in question were the lowest either of these officers had given at that time, and is substantially less complimentary than other fitness reports Lieutenant Colonel [REDACTED] received as a Lieutenant Colonel, either before or after this report. It is likely that her competitiveness for promotion would have been considerably improved if this report was not in her record. Therefore, it is recommended that Lieutenant Colonel [REDACTED] request to remove her failures of selection be approved if the PERB decides to remove the 980801-990326 fitness report from her record.

3. Point of contact is Lieutenant Colonel [REDACTED] at [REDACTED]

[REDACTED]  
By direction

George, Brian J

10443-02

From: [REDACTED]@manpower.usmc.mil]  
Sent: Wednesday, December 18, 2002 11:19 AM  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: [REDACTED]

This [REDACTED] in reference to our advisory opinion pertaining to LtCol [REDACTED] removal of failures of selection (FOS). Our opinion recommending removal of the FOS if the fitrep is question was pulled was based primarily on the derogatory portion of the report entered by the RO. If only the RO's comments are removed, we feel that would still be sufficient to warrant removal of the failures of selection.

Respectfully,  
[REDACTED]  
Assistant Branch Head,  
Career Management Team  
[REDACTED]

Career Info:  
[www.manpower.usmc.mil](http://www.manpower.usmc.mil) >Career Management Team

Billets/ADSW/RCT:  
<https://www.mol.usmc.mil/> >RDOL